



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-292394

June 19, 2003

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable W.J. "Billy" Tauzin
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

Subject: *Environmental Protection Agency: Revisions to Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Backstop Emissions Trading Program for Nine Western States and Eligible Indian Tribes Within That Geographic Area*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Environmental Protection Agency (EPA), entitled "Revisions to Regional Haze Rule to Incorporate Sulfur Dioxide Milestones and Backstop Emissions Trading Program for Nine Western States and Eligible Indian Tribes Within That Geographic Area" (FRL-7504-4). We received the rule on May 21, 2003. It was published in the Federal Register as a final rule on June 5, 2003. 68 Fed. Reg. 33764.

The final rule revises EPA's regional haze rule to incorporate certain provisions for western states and eligible Indian tribes.

Enclosed is our assessment of the EPA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the EPA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Robert Robinson,

Managing Director, Natural Resources and Environment. Mr. Robinson can be reached at (202) 512-3841.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Stephanie Daigle
Principal Deputy Associate Administrator
Environmental Protection Agency

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
ENVIRONMENTAL PROTECTION AGENCY
ENTITLED
"REVISIONS TO REGIONAL HAZE RULE TO INCORPORATE
SULFUR DIOXIDE MILESTONES AND BACKSTOP EMISSIONS
TRADING PROGRAM FOR NINE WESTERN STATES AND
ELIGIBLE INDIAN TRIBES WITHIN THAT GEOGRAPHIC AREA"
(FRL-7504-4)

(i) Cost-benefit analysis

EPA performed a cost-benefit analysis in connection with the Regional Haze Regulations that it published as a final rule on July 1, 1999. 64 Fed. Reg. 35714. EPA finds that the costs and benefits associated with the Western Regional Air Partnership's program have been captured in the 1999 analysis.

That analysis concluded that the planning, analysis, and Best Available Retrofit Technology control elements would result in \$72 million in incremental annualized costs. If states all choose to establish the same illustrative progress goal, the incremental costs range from \$1 billion to \$4 billion with associated benefits of \$1 billion to \$19 billion.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On May 6, 2002, EPA published a Notice of Proposed Rulemaking in the Federal Register. 67 Fed. Reg. 30418. EPA received 11 written comments in response to the notice that are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

EPA has forwarded the required information, including the annual burden estimates, to OMB for review. The burden estimates are calculated using the assumption that seven eligible states and four tribes would participate in the program. The results indicate:

- 16,100 hours to 19,900 for affected sources,
- 14,010 to 14,430 hours for states,
- 2,520 to 2,600 hours for tribes,
- 1,305 to 1,375 hours for the federal government, and
- 240 hours for regional planning organizations.

Statutory authorization for the rule

The final rule is promulgated under the authority contained at 42 U.S.C. 7410-7671q.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

EPA has determined that the final rule does not have federalism implications.